

**REMARKS**

Applicants thank Examiner Venci and Examiner Shibuya for the courtesies extended in the telephone interview of November 7, 2008. M.P.E.P. 713.04 provides eight items (A-H) that should be addressed in Applicant's submission of the substance of the interview. Applicant's submissions regarding each of those items follow.

(A) A draft of the response to the pending Office action was provided to the Office on November 4, 2008. That draft was discussed in the interview.

(B) All of the claims were generally discussed.

(C) The Bohnenkamp reference was discussed.

(D) The following claim amendments were discussed: (1) amendment of claim formatting to remove extraneous periods; and (2) amendment of claim 13 to recite that "the light emitted by the at least one light emitting element is transmitted into the fluid in the inner volume of said at least one tube by at least one primary light connecting element through said first opening of said tube."

(E) Applicants discussed with the Examiners the nature of the invention, the Bohnenkamp references, and distinctions between the two.

(F) No other pertinent matters were discussed.

(G) The Examiners indicated that they would consider the arguments presented by the Applicants.

(H) This interview was by telephone, so this item does not apply.

Claims 1-12, 14, 15, 34-58, and 61 have been cancelled herein without prejudice to their later prosecution in this or another application. Claims 13, 16-33, 59, 60, and 62

are pending. Claim 13 has been amended to incorporate the limitations of claim 15. The other claims have been amended to remove extraneous periods or to correct formatting.

### **Objections**

Claim 13 has been objected to as being grammatically awkward. Applicants have amended the claim in an attempt to address the Office's concerns. Applicants request that the rejection be withdrawn.

### **Claim Rejections 35 U.S.C. §102**

#### **Liu**

Claims 1-14, 16-21, 24-33 and 55-62 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Liu U.S. Patent No. 6,020,207. With the cancellation of claims 1-12, 55-58, and 61 and the amendment of claim 13, Applicants respectfully maintain that the rejection is moot. Applicants request that the rejection be withdrawn.

#### **Bohnenkamp**

Claims 1-6, 9, 11-19, 21, 24-28, 30, 32, 33, 55-58, and 60-62 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Bohnenkamp U.S. Patent No. 6,252,657 ("the '657 patent"). Applicants disagree and traverse this rejection.

Applicants discussed Bohnenkamp previously and in the interest of compact prosecution, will not repeat those arguments herein. Rather, Applicants will simply note that Bohnenkamp uses a single light source, which is positioned so that the light meets the outer longitudinal side of the capillary. See, e.g., Abstract and Fig. 1, light source 2.

In contrast, the present claims require the use of a light emitting element that "is a combination or an array of elements selected from a laser; a Light Emitting Diode; a white light source and a Vertical Cavity Surface Emitting Laser." Bohnenkamp does not teach or suggest the use of such a multiplicity of light emitting elements. Furthermore, Bohnenkamp does not teach or suggest that the single light source can be positioned at positions other than the outer longitudinal side of the capillary and more particularly, does not teach or suggest that the light source can be positioned so as to transmit light through a first opening of the tube, as claimed herein. Accordingly, Bohnenkamp does not anticipate the pending claims. Applicants request that the rejection be withdrawn.

#### **Claim Rejections 35 U.S.C. §103**

Claims 1-14, 16-33 and 55-60 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Gilby & Carson, U.S. Patent No. 5,184,192 (hereinafter '192 patent) in view of Liu, U.S. Patent No. 6,020,207. With the cancellation of claims 1-12, 55-58, and 61 and the amendment of claim 13, Applicants respectfully maintain that the rejection is moot. Applicants request that the rejection be withdrawn.

#### **Double Patenting**

Claims 1-33 and 55-60 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-8, 10-30, and 32-35 of copending Application No. 10/572,931, in view of Hawes, U.S. Patent No. 3,556,659. Applicants file herewith a terminal disclaimer, over copending Application No. 10/572,931, in compliance with 37 C.F.R. § 1.321(c). That terminal disclaimer is being filed for the purpose of expediting prosecution and should not be

construed as an acquiescence to the rejections. Applicants submit that the terminal disclaimer renders the rejection moot and requests that the rejection be withdrawn.

**CONCLUSION**


In view of the foregoing amendments and remarks, Applicants respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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